



STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF	:	Administrative Action
	:	
	:	
	:	
	:	FINAL ORDER
THERESA A. ALBANESE, LPN	:	OF DISCIPLINE
License # 26NP06106100	:	
	:	
	:	
TO PRACTICE NURSING IN THE	:	
STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Nursing ("Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Theresa A. Albanese ("Respondent") is a Licensed Practical Nurse in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On or about June 30, 2012, Respondent completed and submitted an online biennial renewal application which asked whether Respondent would have "completed the required continuing education credits by May 31, 2012," referring to the biennial

renewal period of June 1, 2010 - May 31, 2012. Respondent answered "yes" and certified that answer by submitting the online application.

3. On or about September 19, 2012, Respondent was arrested by the New Jersey State Police for two counts of violating N.J.S.A. 2C:35-10A(1) (Possession of Controlled Dangerous Substance or Analog), one count of violating N.J.S.A. 2C:36-2 (Possession of Drug Paraphernalia), and one count of violating N.J.S.A. 2C:36-6 (Possess/Distribute Hypodermic Needle).

4. On or about September 24, 2012, the Board sent a letter of inquiry to Respondent's mailing address in Bayville, New Jersey, via regular and certified mail, requesting certain documents regarding Respondent's arrest, as well as other information such as proof of having completed the required continuing education. The regular mailing was not returned. The receipt of the certified mailing was signed upon delivery on September 26, 2012. The Board received no reply.

5. On May 5, 2013, Respondent was found Guilty of (1) Count of violating N.J.S.A. 2C:5-2 (Conspiracy Possess Controlled Dangerous Substance or Analog).

6. On or about May 8, 2013, the Board sent another letter of inquiry to the Respondent's address of record in Bayville,

New Jersey, (which is a different address than her mailing address) via regular and certified mail, requesting certain information about the criminal matter as well as proof of having completed the required continuing education for the 2010-2012 renewal cycle. The regular mailing was not returned. The certified mailing was returned as "Unclaimed." The Board received no reply.

7. On or about May 30, 2014, Respondent completed and submitted an online biennial renewal application which asked whether Respondent would have "completed the required continuing education credits by May 31, 2014," referring to the biennial renewal period of June 1, 2012 - May 31, 2014. Respondent answered "yes" and certified that answer by submitting the online application. Respondent also answered that she did not complete the required course on Organ and Tissue Donation. (Exhibit G).

CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's repeated requests for information constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, which the Board deems professional misconduct pursuant

to N.J.S.A. 45:1-21(e) and also subjects Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h).

Respondent's drug related arrest and conviction raise sufficient concern such that testing, monitoring, evaluation, and treatment are warranted, as a condition for continued or reinstated licensure, to evaluate whether Respondent's continued practice as a nurse may jeopardize the safety and welfare of the public pursuant to N.J.S.A. 45:1-22(f) and to ensure that Respondent can properly discharge nursing functions pursuant to N.J.S.A. 45:1-22(e). Additionally, the Board finds that by being found guilty of violating N.J.S.A. 2C:5-2 (Conspiracy Possess Controlled Dangerous Substance or Analog), Respondent has been convicted of, or engaged in acts constituting, a crime or offense adverse to the practice of nursing within the intendment of N.J.S.A. 45:1-21(f).

Pursuant to N.J.A.C. 13:37-5.3(b), nurses are required to complete a minimum of thirty (30) hours of continuing education during the preceding biennial period in order to renew their licenses. Pursuant to N.J.A.C. 13:37-5.3(f), nurses are required to maintain documentation of completion of continuing education for a period of four years after completion, and shall submit such documentation to the Board upon request.

By virtue of having failed to respond to the letters of inquiry, Respondent is deemed to have failed to demonstrate, to the satisfaction of the Board, that Respondent completed the continuing education credits required for renewal during the biennial period of June 1, 2011 to May 31, 2013. The Board therefore finds Respondent in violation of N.J.A.C. 13:37-5.3(b) and 13:37-5.3(f), which in turn subjects Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

Respondent's use of dishonesty and misrepresentation during the license renewal process in falsifying her continuing education information constitutes a violation of N.J.S.A. 45:1-21(b), subjecting Respondent to sanctions.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on January 29, 2015, provisionally suspending respondent's nursing license and imposing a reprimand and a total of \$750 in civil penalties. A copy of the Order was served upon respondent by certified and regular mail at her address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all

reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent replied to the Provisional Order. Respondent has documented completion of required continuing education, from the 2010-2012 licensing cycle, through the 2014-2016 licensing cycle. However respondent could not demonstrate that continuing education for the 2010-2012 licensing cycle was timely completed: she maintained she was unable to locate the documentation. With respect to respondent's arrest in 2012, it was pointed out that respondent was not convicted of conspiracy to possess a controlled dangerous substance, as she was admitted into the Pre-Trial Intervention Program. However, respondent entered a guilty plea to the conspiracy charges on May 6, 2013. Moreover, respondent admitted to becoming addicted to opioids until her arrest in 2012.

The Board considered this matter, and determined that, although respondent has provided the Board with the information originally requested, respondent's guilty plea, and her admission to a previous addiction to opioids, warrants finalization of the Provisional Order, imposing suspension until respondent can demonstrate that her continued practice as a

nurse does not jeopardize the safety and welfare of the public pursuant to N.J.S.A. 45:1-22(f), and to ensure that she is able to properly discharge the functions of a nurse pursuant to N.J.S.A. 45:1-22(e).¹ In addition, respondent's failure to respond to the Board's initial inquiry warrants imposition of the \$500 civil penalty for failure to cooperate in violation of N.J.A.C. 13:45C-1.2, -1.3: respondent's failure to timely respond to the Board led to unnecessary delay and expenditure of resources, making it necessary for the Board to issue an order so as to obtain requested information. In addition, respondent's failure to demonstrate timely completion of continuing education for the 2010-2012 licensing cycle warrants imposition of the reprimand for misrepresentation, and imposition of the \$250 civil penalty for the violation of N.J.A.C. 13:37-5.3. The Board notes that generally, providers of qualifying continuing education will provide certificates of completion years after-the-fact to licensees who request such documentation.

ACCORDINGLY, IT IS on this 2nd day of June, 2015,

ORDERED that:

1. Respondent's license to practice nursing is suspended until such time as Respondent demonstrates to the Board's satisfaction that she is fit and competent to practice, after

¹ In a communication dated May 27, 2015, from the Professional Assistance Program of New Jersey (PAP), it was indicated that respondent had enrolled in PAP. However, PAP did not opine on respondent's fitness to practice at this time.

undergoing a comprehensive mental health and substance abuse evaluation.

2. A reprimand is imposed on Respondent for falsifying the continuing education information on her license renewal applications.

3. Respondent is assessed a civil penalty in the amount of seven hundred and fifty dollars (\$750). Said penalty is an aggregate penalty, which includes a penalty in the amount of five hundred dollars (\$500) for failure to cooperate with a Board investigation and a penalty in the amount of two hundred and fifty dollars (\$250) for failing to timely complete required continuing education. Payment shall be made by certified check, bank cashier check, or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than fifteen (15) days after the date of filing of this order. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

4. By undergoing evaluation, Respondent expressly waives any claim of privilege or confidentiality that she may have concerning RAMP reports and disclosures to the Board, and use by the Board of that information in any proceedings.

5. All costs associated with the evaluation, monitoring, and/or treatment outlined above shall be the responsibility of, and paid directly by, Respondent.

6. Respondent shall refrain from practicing as a nurse and shall not represent herself as a Licensed Practical Nurse until such time as her license is reinstated. Any practice in this State prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

7. The Board reserves the right to initiate disciplinary proceedings based upon any information that Respondent ultimately provides in response to the letter of inquiry or upon any new information the Board receives.

NEW JERSEY STATE BOARD OF NURSING

By: *Patricia Murphy PhD APN*
Patricia Murphy, PhD, APN
Board President